

ORIGINAL

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

* * * * *
STATE OF LOUISIANA *
versus *
CLAY L. SHAW *
* * * * *

NO. 198-059
1426(30)
SECTION "C"

EXCERPT FROM PROCEEDINGS in Open
Court on February 17, 1969,

B E F O R E :

HONORABLE EDWARD A. HAGGERTY, JR.
JUDGE, SECTION "C"

Dietrich & Pickett, Inc.

Stenotypists

333 ST. CHARLES AVENUE, SUITE 1221
NEW ORLEANS, LOUISIANA 70130 - 522-3111

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>
HERBERT ORTH	2	11

E X H I B I T S

<u>EXHIBIT NO.</u>	<u>IDENT.</u>	<u>OFFERED</u>	<u>REC'D.</u>
S-53	10		
S-54	10		

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HERBERT ORTH,

a witness called by and on behalf of the State,
having been first duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. ALFORD:

Q Sir, would you tell the Gentlemen of the Jury
and the Court your name, please.

A My name is Herbert Orth.

Q Mr. Orth, would you be careful to speak into
the microphone.

A Fine, fine.

Q By whom are you employed, Mr. Orth?

A LIFE Magazine.

Q In what capacity?

A Laboratory Chief of the TIME-LIFE Photo
Laboratory.

Q Now, Mr. Orth, in connection with a subpoena
issued by this court to LIFE Magazine,
did you perform any function or develop
any photographs?

A Yes, I did, yes.

Q What exactly did you do, sir?

A Well, over the -- recently or --

1 Q Yes, sir. 3
2 A Well, I was asked recently to --
3 MR. DYMOND:
4 Object to what he was asked to do,
5 Your Honor.
6 BY MR. ALFORD:
7 Q Can you explain to us what you did?
8 THE COURT:
9 Tell what you did without telling us who
10 asked you to do it.
11 THE WITNESS:
12 All right. From the original Zapruder
13 film I was asked to --
14 MR. DYMOND:
15 Object to what he was asked to do.
16 THE COURT:
17 Just tell us what you did.
18 BY MR. ALFORD:
19 Q Mr. Orth, just tell us what you did.
20 A I made black and white prints and I made color
21 prints and color slides.
22 Q Now, from what film or films were these made?
23 A From the original Zapruder film.
24 Q I see. Did you copy the entire film or did
25 you make prints of the entire film or only

1 portions of it?

2 A Only portions.

3 Q And what portions of this film did you
4 reproduce in black and white prints?

5 A Well, the black and white --

6 MR. DYMOND:

7 If the Court please, we object to this
8 entire testimony on the ground that
9 it is irrelevant to the issues in
10 this case.

11 THE COURT:

12 The objection is overruled.

13 MR. DYMOND:

14 To which ruling we reserve a bill, making
15 the objection, the reason for it,
16 the entire line of questioning, all
17 the answers given by this witness
18 together with all of the testimony
19 and the record up until this point
20 parts of the bill.

21 THE COURT:

22 You may proceed, Mr. Orth.

23 THE WITNESS:

24 The black and white prints were made many
25 years ago, only for editorial use;

1 the color prints were made recently.

5

2 BY MR. ALFORD:

3 Q I see. And what portions of the film do the
4 black and white prints purport to cover,
5 sir?

6 MR. DYMOND:

7 We object to this on the ground that the
8 prints speak for themselves, if the
9 Court please, rather than have the --

10 MR. ALFORD:

11 I will rephrase the question.

12 BY MR. ALFORD:

13 Q How many black and white prints do you have,
14 sir, in your possession?

15 A I have none, only color prints with me.

16 Q All right. How many color prints do you have?

17 A About 21 or 22 8 x 10 color photographs.

18 Q Do you have them in your possession at this
19 time?

20 A Yes, I have, in my brief case.

21 Q Would you please take them out, sir.

22 A Certainly (producing photographs).

23 Q How many of these photographs are there, sir?

24 A I believe there are either 21 or 22.

25 Q Would you count them, please.

1 A Yes. (Counting) Twenty-one.

2 Q Were these prints made by you personally or
3 under your supervision?

4 A Some by me and some under my supervision.

5 Q I see. Do these prints accurately depict the
6 , scenes which they purport to?

7 A Yes, they do, yes, they do.

8 THE COURT:

9 May I suggest that you let Defense Counsel
10 see these.

11 MR. ALFORD:

12 Yes, sir, yes, sir (exhibiting photographs
13 to Counsel).

14 BY MR. ALFORD:

15 Q Mr. Orth, do these photographs have numbers
16 on them, sir?

17 A Yes, they do, yes.

18 Q And what do these numbers represent, sir?

19 A Well, they actually represent the --

20 MR. DYMOND:

21 Your Honor, we object unless it is first
22 established who put those numbers on
23 there.

24 MR. ALFORD:

25 Very well.

1 BY MR. ALFORD:

2 Q Who placed the numbers on the pictures?

3 A I actually put these numbers on here personally.

4 THE COURT:

5 Louder.

6 THE WITNESS:

7 I put these numbers on there.

8 BY MR. ALFORD:

9 Q And what do they represent?

10 A They represent the frame numbers corresponding
11 to the original 8-millimeter movie film.

12 Q Thank you, sir.

13 A You are welcome.

14 MR. ALFORD:

15 May it please the Court, in accordance
16 with the subpoena duces tecum I would
17 like the record to presently reflect
18 that these photographs have been
19 turned over to the Court.

20 BY MR. ALFORD:

21 Q Mr. Orth, do you have any slides in your
22 possession at this time?

23 A Yes, I do.

24 Q Would you please take those out.

25 A Yes, sir (producing slides).

1 Q How many such slides do you have in your
2 possession, Mr. Orth?

3 A From frame 200 to frame 320, so that would be
4 120 slides.

5 Q I see. And were these slides processed either
6 by you personally or under your
7 supervision?

8 A Yes, they were.

9 (Slides exhibited to Mr. Dymond.)

10 BY MR. ALFORD:

11 Q Now, Mr. Orth, I notice that these slides
12 also have on them a number. Could you
13 please explain -- or did you personally
14 place this number on these slides?

15 A No, not personally these numbers, but they
16 were put on under my supervision.

17 MR. DYMOND:

18 Object.

19 MR. ALFORD:

20 He said they were put on under his
21 supervision.

22 THE COURT:

23 What is the objection, Mr. Dymond?

24 MR. DYMOND:

25 I will withdraw that objection, Your Honor.

1 BY MR. ALFORD:

2 Q And what do the numbers represent, sir?

3 A Well, again they represent the actual frame
4 numbers to correspond with the original
5 8-millimeter movie film.

6 MR. ALFORD:

7 May it please the Court, at this time
8 in accordance with the subpoena duces
9 tecum I wish to present to the Court
10 120 slides from the Zapruder film,
11 sir.

12 THE COURT:

13 Mr. Alcock, you have not given these an
14 identifying number for an exhibit.
15 Would you like the next number we
16 have, merely for identification
17 purposes? It would be S-53, the
18 next State exhibit number. For the
19 record, I think we should identify --
20 at least for identification purposes
21 at this time we should identify what
22 these are.

23 MR. ALFORD:

24 Yes, sir. It is merely our intent at
25 this time to make the return on the

1 subpoena duces tecum, and, if it
2 please the Court, at a later time
3 we will number these items to be
4 admitted in evidence.

5 THE COURT:

6 I would suggest you number them now. *

7 Make them S-53 for the photographs
8 for identification purposes, --

9 MR. ALFORD:

10 Very well.

11 THE COURT:

12 And S-54 for the slides, for identification
13 purposes, --

14 MR. ALFORD:

15 Very well.

16 THE COURT:

17 -- so we will know what we are talking
18 about for the record. They are not
19 accepted in evidence at this moment.

20 MR. ALFORD:

21 Yes, sir.

22 (Whereupon, the photographs and
23 slides identified by the witness
24 were duly marked for identification
25 as "S-53" and "S-54.")

1 MR. ALFORD:

2 The State has no further questions at
3 this time.

4 CROSS-EXAMINATION

5 BY MR. DYMOND:

6 Q Mr. Orth, when you say that these prints were
7 made, some of them were made under your
8 supervision, now, precisely what do you
9 mean by that?

10 A Well, they were all made under my supervision,
11 in my capacity; some of them were made by
12 myself. There are approximately seven
13 people that at one time or another were
14 involved, but everything came through me
15 and I was directly involved in the entire
16 procedure.

17 Q Well, when you say made under your supervision,
18 do you mean that they were made by
19 employees in an office of which you are
20 chief or at the head of the office, or
21 what?

22 A That is correct, yes.

23 Q Were you physically present during the making
24 of each one of these prints, observing
25 the mechanics of making each one of them?

1 A Yes, very much so. I can tell you why.

2 Q Go right ahead.

3 A The reason was the importance of the films.

4 We don't like to leave the film out of
5 our hands at any time, out of the
6 company vault. I signed them out of the
7 company vault, and therefore I was
8 responsible for it and I never left it
9 out of my sight as long as it was in the
10 lab, so while the film was being worked
11 on and while these prints were made I was
12 constantly there.

13 Q Would the same apply to the slides?

14 A Very much so, yes.

15 Q That is all, sir.

16 A Thank you.

17 THE COURT:

18 Do you have any further need of this
19 gentleman?

20 MR. ALFORD:

21 No, Your Honor.

22 THE COURT:

23 Thank you.

24 (Witness excused.)

25 MR. OSER:

1 Your Honor, if the Court please, may I
2 request that besides Mr. Orth being
3 excused from the subpoena, also Time
4 Incorporated be excused from the
5 subpoena?

6 THE COURT:

7 You are excused from the subpoena.

8 MR. OSER:

9 Your Honor, at this time, may it please
10 the Court, the State asks for the
11 luncheon recess, because at 1:30
12 the State intends to put on its
13 testimony in regard to these
14 particular photographs, an expert
15 witness. It is ten minutes to the
16 hour now.

17 THE COURT:

18 Gentlemen of the Jury, we are now going
19 to recess for lunch. Again I must
20 instruct you and admonish you. You
21 may be tempted, because of the
22 duration of this trial, to want to
23 talk to one another. I certainly do
24 not have any objections to jurors
25 conversing with one another, but

1 certainly I must admonish you not to
2 discuss the case, as tempting as it
3 may be to do, not to discuss the case
4 with yourselves or sheriffs or
5 anyone else until it is finally given
6 to you for your decision.

7 The Jury will be excused. We
8 stand recessed for lunch and we will
9 be adjourned to 1:30.

10 Mr. Shaw, you are excused under
11 your bond.

12
13 Thereupon, at 11:50 o'clock
14 a.m., a recess was taken until
15 1:30 o'clock p.m.
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C E R T I F I C A T E

I, the undersigned, Helen R. Dietrich, do
hereby certify:

That the above and foregoing (14 pages of
typewritten matter) is a true and correct transcription
of the stenographic notes of the proceedings had herein,
the same being the testimony of Herbert Orth -----
----- from the proceedings in Open
Court on February 17, 1969, and taken down by the
undersigned and transcribed under her supervision, on the
day and date heretofore noted.

New Orleans, Louisiana, this 6th day of June,
1969.


HELEN R. DIETRICH
REPORTER